

J. Douglas #27  
11/21/02



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of :

FREEMAN et al. : Group Art Unit: 2613

Serial No. 08/906,493 :

Filed: August 5, 1997 :

For: VIDEO RECORDING RESPONSIVE TO TRIGGERING EVENT

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Technology Center 2600

**RESPONSE TO NOTICE OF NON-COMPLIANCE WITH 37 C.F.R. 1.192(c) AND**  
**TRANSMITTAL OF SUBSTITUTE APPEAL BRIEF**

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith is a revised substitute Appeal Brief (in triplicate) in the above-identified application in substitution for the Appeal Brief filed on July 17, 2002, and a response to the Notice of Non-Compliance with 37 C.F.R. 1.192(c) issued on October 28, 2002, the time for response to which is up to and including November 28, 2002.

**REMARKS**

An Appeal Brief in triplicate was filed on July 17, 2002. A Notice of Non-Compliance with 37 C.F.R. 1.192(c) issued on October 28, 2002.

In the Notification, the Examiner asserts that the Brief includes the statement required by 37 C.F.R. 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the Brief. The Examiner further asserts that the arguments in the Brief fail to sufficiently address why each claim group and each claim that is asserted to stand and fall alone is "separately patentable". No specific claims are identified by the Examiner in support of these assertions. The Examiner further asserts that §§ VII and VIII in the Brief should be placed in the arguments section to comply with 37 C.F.R. 1.192(c).

The Brief has been amended to add an assertion that each of claims 2, 3 and 4 also stand and fall alone, in view of the separate arguments presented with respect to the independent basis for allowance of each of these claims in the originally filed Brief and the inadvertent omission of these claims from Section IX of the Brief.

However, the Notice of Non-Compliance, and asserted basis therefore, are respectfully traversed. More particularly, the independent basis for allowance of claim 1 (on which claims 6-7, 9, 11, 32, 33 and 37-38 depend), claim 15 (on which claims 16-17, 20-21 and 41-42 depend), as well as each of claims 13-14, and 44 are set forth on, *inter alia*, on pages 20-24 of the substitute Appeal Brief (pages 23-27 of the original filed Appeal Brief). Separate arguments for the reversal of the rejection of each of claims 2-4, 18-19, 34-35, 39-40 and 43 are set forth on, *inter alia*, on pages 24-29 of the substitute Appeal Brief (pages 28-34 of the originally filed Appeal Brief). Arguments

relating to the independent patentability of claims 5, 8, 10, 12 and 36 are set forth, *inter alia*, on pages 34-36 of the substitute Appeal Brief (pages 39-42 of the originally filed Appeal Brief). Finally, arguments in support of the reversal of the rejection of claim 45 are set forth, *inter alia*, on page 44 of the Substitute Appeal Brief (pages 50-51 of the originally filed Appeal Brief).

Accordingly, it is respectfully submitted that the Brief sufficiently addresses why each claim group, as well as each claim that is asserted to stand and fall alone, is separately patentable over the applied prior art.

With respect to §§ VII and VIII in the Brief, the Examiner's attention is directed to M.P.E.P. §1206. As noted therein "37 C.F.R. §1.192(c) merely specifies the minimum requirements for a Brief, and does not prohibit the inclusion of any other material which an Applicant may consider necessary or desirable ... A Brief is in compliance with 37 C.F.R. 1.192(c) as long as it includes items 1-9 in the order set forth (with the Appendix, item (9), at the end)."

§VII provides a brief description of the applied references and §VIII summarizes the prosecution as it has been conducted in this case. Both sections are considered desirable and accordingly their inclusion is not prohibited by the regulations. Furthermore, each of the required sections is included in the Brief in the required order and with item 9 appended to the end of the Brief as required. Accordingly, it is respectfully submitted that §§ VII and VIII have been properly included in the Brief and their inclusion is in compliance with 37 C.F.R. 1.192(c).

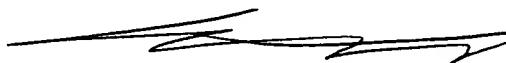
It is accordingly respectfully submitted that the Appeal Brief filed herewith in triplicate is in compliance with 37 C.F.R. 1.192(c) and M.P.E.P. §1206 and should be entered.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed local telephone number, in order to expedite resolution of any remaining issues and further to expedite passage of the application to issue, if any further comments, questions or suggestions arise in connection with the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 01-2135 and please credit any excess fees to such deposit account.

Respectfully submitted,

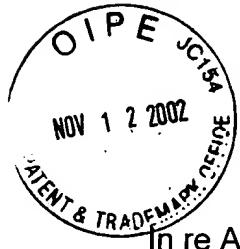
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: Group Art Unit: 2613

: Examiner: V. Le

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Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith is a Response to Notice of Non-Compliance with 37 C.F.R. 1.192(c) and Transmittal of Substitute Appeal Brief in the above-identified application.

No additional fee is required.

Also attached: Revised Appeal Brief (in triplicate)

The fee has been calculated as shown below:

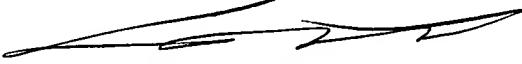
	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	Fee
Total Claims	35	45	0	x \$18 =	\$0
Independent Claims	5	5	0	x \$84=	\$0
Fee for Extension of Time					\$0.00
<b>TOTAL FEE DUE</b>					<b>\$0.00</b>

[ ] A credit card payment form in the amount of \$ is attached

[X] Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 01-2135, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

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Date: November 12, 2002